IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 26TH MARCH 2007 / 5TH CHAITHRA 1929

Crl.MC.No. 840 of 2007()

CC.180/2006 of CHIEF JUDICIAL MAGISTRATE COURT, KOZHIKODE

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PETITIONER: PETITIONER

SAFEER M.P., AGED 28 YEARS,
S/O MOIDEENKOYA, PANDARATHUM VALAPP, SAMEENA MANZIL, KAPPAKKAL, PYYANAKKAL, KALLAI P.O., KOZHIKODE DT.

BY ADV. SRI.P.SANJAY
SRI.A.PARVATHI MENON

RESPONDENTS: RESPONDENTS

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1. STATE OF KERALA REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM.

2. NASEEDA, D/O ABOOBACKAR,
THEKKETHODI VAYAL, JAYANTHI ROAD,
P.O.NALLALAM, KOZHIKODE.

BY P.P. SRI.GIKKU JACOB.
BY ADV. SRI.BIJU MEENATTOOR

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 26/03/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

CRL.M.C.NO. 840 OF 2007

Dated this the 26th day of March, 2007

ORDER

This Crl.M.C. is filed by the petitioner, who is the 5th accused in a prosecution, inter alia, for the offences punishable under Sec.498A read with Sec.34 of the IPC. The petitioner is the brother-in-law of the 2nd respondent – the de facto complainant. The co-accused have already stood trial. All other co-accused, except the deceased father, were found not guilty and acquitted. The petitioner was not available for trial and hence the case against him was split up.

2. The petitioner has come to this Court along with the 2nd respondent to apprise this Court of the fact that the disputes between the parties have been amicably settled and that the 2nd respondent has compounded the offences allegedly committed by the petitioner. The spouses have settled their disputes harmoniously and they are residing

separately now on the strength of Annexure-A2 agreement, it is submitted. The 2nd respondent has entered appearance through counsel and a joint application for composition has been filed. The learned counsel for the 2nd respondent/the de facto complainant vouches for the signature of the 2nd respondent in the application for composition.

3. I am satisfied, in these circumstances, that the matter has been amicably settled. The offence under Sec.498A of the IPC is not compoundable. But the learned counsel submit that the decision in **B.S. Joshy v. State of Haryana** (AIR 2003 SC 1386) justifies the invocation of the powers under Sec.482 of the Cr.P.C. The rationale underlying the said decision is that the interests of justice may at times transcend the interests of mere law and in such exceptional cases powers under Sec.482 of the Cr.P.C. can be invoked and Sec.320 of the Cr.P.C. cannot then be a fetter to the invocation of such power.

4. I am satisfied that this is an eminently fit case where the harmonious settlement of the disputes between the spouses can be accepted and the proceedings brought to premature termination.

5. In the result:

(i) This Crl.M.C. is allowed.

(ii) C.C.No.180/06 pending before the Chief Judicial Magistrate's Court, Kozhikode, against the petitioner is hereby quashed.

Sd/-

(R. BASANT, JUDGE)

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P.S. to Judge